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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7583 OF 2025

Sandeep Madhukar Kamble & Ors. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr. Drupad Sopan Patil with Mr. Suyash Sule for the petitioners.

Ms. A.A. Nadkarni, AGP for respondent Nos.1 to 3-State.

Mr. Sarthak S. Diwan for respondent Nos.4 to 10.

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CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 20, 2025

P.C.:

1. By this writ petition filed under Article 227 of the Constitution of India, the petitioners are challenging the Judgment and Order dated 1 June 2023 passed by respondent No.1 in Revision Application No.114 of 2023. By the said order, respondent No.1 set aside the Judgment and Order dated 24 January 2023 passed by respondent No.2 dismissing the appeal filed by respondent Nos.4 to 11. That appeal was directed against the order passed by respondent No.3 in exercise of powers under Section 77-A of the Maharashtra Cooperative Societies Act, 1960, appointing an Administrator over Shriram Cooperative Housing Society Limited (hereinafter referred to as “the Society”).

2. The facts which have given rise to the present writ petition are these. The petitioners are members of the Society. There was a dispute between two groups regarding elections conducted by them for the term 2015 to 2020. Those elections were the subject matter of earlier litigation. It is not in dispute that the term of the committee elected in 2015 ended in 2020. In November–December 2021, the group of petitioners and the group of respondent Nos.4 to 11 both claimed to have conducted elections of the Society. The Election Officer appointed by the petitioners' group submitted a report of the elections held by them on 4 January 2022 to respondent No.3, the Deputy Registrar of Cooperative Societies. The group of respondent Nos.4 to 11 also submitted a separate report of elections to respondent No.3. Faced with these two rival claims, respondent No.3, by exercising power under Section 77-A(f), appointed an Administrator for conducting elections and further directed the Administrator not to take any major policy decisions. Accordingly, the election process commenced.

3. Respondent Nos.4 to 11, being aggrieved by the order dated 5 April 2022, preferred Appeal No.83 of 2022 under Section 152 of the Act before respondent No.2. That appeal came to be dismissed by respondent No.2 on 24 January 2023.

4. The Administrator thereafter published a preliminary voters' list on 10 May 2023 and a final voters' list on 22 May 2023.

5. Respondent Nos.4 to 11, being aggrieved by the dismissal of their appeal on 24 January 2023, filed Revision Application No.114 of 2023 before respondent No.1. According to the

petitioners, they were not served with copies of the revision application. It is their case that respondent No.1, without giving them an opportunity of hearing, set aside the order appointing the Administrator by order dated 1 June 2023. The petitioners have, therefore, filed the present writ petition challenging the said order of respondent No.1.

6. This Court, on 7 August 2024, issued Rule and directed both parties to maintain status quo. Today, when the matter was taken up, both parties agreed that the writ petition be finally disposed of along with Writ Petition No.8444 of 2025 filed by the Society, which challenges the communication dated 9 September 2024. Accordingly, by consent of parties, both writ petitions are heard finally.

7. Mr. Patil, learned Advocate for the petitioners, submitted that the Society is a Type-A society. Therefore, its election is governed by Rules 76A to 76N of the Maharashtra Cooperative Societies Election to Committee Rules. Referring to Section 73-I of the Maharashtra Cooperative Societies Act, he argued that the term of the earlier Managing Committee ended in 2020 and no election was held by either group until November 2021. In such a situation, sub-section (2) of Section 73-I makes it mandatory for the Registrar to appoint an Administrator under Section 77-A of the Act. He submitted that respondent No.3 was, therefore, justified in appointing an Administrator.

8. Drawing attention to Rule 76-O(3), Mr. Patil submitted that even if it is assumed that respondent Nos.4 to 11 conducted

elections, the Returning Officer under the said rule was required to submit the result of election in Form E-17 to the Registrar. Thereafter, the Registrar was bound to constitute the Committee within 15 days from receipt of such Form E-17. According to him, no such Committee was ever constituted as required by Rule 76-O. Moreover, in the order dated 5 April 2022 passed under Section 77-A, the Registrar had specifically recorded a finding that the election claimed by respondent Nos.4 to 11 was not in accordance with Rule 76. He submitted that, in the absence of a validly constituted Committee, and since two rival groups were claiming to be the elected Committee, there was no legally elected Committee after the expiry of the earlier Committee's term. Hence, appointment of the Administrator to conduct elections was fully justified and in accordance with law.

9. On the other hand, Mr. Diwan, learned Advocate for respondent Nos.4 to 11, submitted that the legality of the Committee consisting of respondent Nos.4 to 11 had already been upheld by the Authorities under the Act. Therefore, in the year 2021, when elections were held, the Committee of respondent Nos.4 to 11 was the only legally constituted Committee which had the authority to conduct elections in terms of Rule 76-B. He submitted that Rule 76-B authorises the Managing Committee to appoint a Returning Officer approved by the State Cooperative Election Authority or from among members of the Society who are not contesting elections, before 60 days of expiry of the existing Committee's tenure, and to communicate the same to the Registrar.

10. He further invited attention to the impugned order passed by respondent No.1. He argued that the order records acceptance of the legitimacy of the Managing Committee consisting of respondent Nos.4 to 11 by an order dated 5 April 2022 under Section 80 of the Act. Therefore, respondent No.1 rightly set aside the appointment of an Administrator under Section 77-A(1)(f). He contended that the petitioners have not placed on record any order of a quasi-judicial authority recognising their group as having legal authority to manage the Society. Their claim was never accepted by any authority. He submitted that respondent Nos.4 to 11 thereafter lawfully took charge of the Society and are managing its affairs.

11. In rejoinder, Mr. Patil submitted that respondent Nos.4 to 11 had made a statement before this Court on 28 June 2023 to maintain status quo, which they continued thereafter. This fact, according to him, is not seriously disputed. Therefore, the Administrator appointed by order dated 5 April 2022 continues to be in charge of the affairs of the Society. He therefore submitted that the impugned order deserves to be quashed and set aside.

12. I have carefully considered the rival submissions and the material placed on record. The core issue is whether respondent No.3 was justified in appointing an Administrator under Section 77-A of the Maharashtra Cooperative Societies Act, 1960, and whether respondent No.1 was right in setting aside that order without giving proper opportunity of hearing to the petitioners.

13. It is an admitted fact that the Managing Committee elected in 2015 completed its term in the year 2020. Under the scheme of the Maharashtra Cooperative Societies Act, continuation of a committee beyond its term is not permissible. Elections have to be conducted before the expiry of the term so that the new body can take charge without interruption. In the present case, no election was held within the prescribed period. It is only much later, in November–December 2021, that rival groups started claiming to have conducted elections.

14. Section 73-I(2) of the Act lays down a clear mandate. It provides that if the term of a committee has expired and no election is held, the Registrar has a duty to act. The provision uses the expression “shall,” which leaves no room for discretion. In such a situation, the law requires the Registrar to invoke powers under Section 77-A and appoint an Administrator to manage the affairs of the society and to ensure lawful elections.

15. The legal position therefore is that, after 2020, there was no validly elected committee in place. Whatever claims were made later by either group could not override the statutory requirement. Both groups were seeking to claim legitimacy, but neither group could show that the elections were conducted within time and in strict compliance with the procedure prescribed under the Election Rules. In this backdrop, respondent No.3, being the statutory authority, was bound to step in.

16. By appointing an Administrator under Section 77-A, respondent No.3 not only acted within his jurisdiction but also

discharged a legal duty cast upon him by Section 73-I(2). The step was necessary to safeguard the democratic functioning of the society and to avoid a situation where rival groups continue to fight for control without any lawful basis. The evidence on record clearly shows that there was a vacuum in the management after 2020. That vacuum could only be lawfully filled by an Administrator until proper elections were conducted.

17. Therefore, once it is established that the committee's term ended in 2020 and no valid election took place within the required time, the appointment of an Administrator by respondent No.3 was both justified and inevitable under the scheme of the Act.

18. The contention of respondent Nos.4 to 11 that their Committee was a legally constituted Committee cannot be accepted. The statutory framework under the Maharashtra Cooperative Societies Election to Committee Rules, 2014 is very specific. Rule 76-O(3) makes it mandatory that, after conducting elections, the Returning Officer must submit the result of election in the prescribed Form E-17 to the Registrar. The law then obliges the Registrar to constitute the new Committee within 15 days from the date of receipt of Form E-17. Thus, the constitution of a validly elected Committee is not complete merely by holding elections or by preparing a list of successful candidates. It requires strict compliance with Rule 76-O, which culminates in the Registrar's act of constituting the Committee.

19. In the present case, there is no evidence that the Registrar, on receiving Form E-17, constituted the Committee within the

statutory period. Absence of such record itself is sufficient to hold that the Committee of respondent Nos.4 to 11 was never legally constituted in the manner prescribed by law.

20. Further, the order dated 5 April 2022 passed by the Registrar carries its own evidentiary value. In that order, the Registrar has specifically recorded a finding that the election claimed to have been conducted by respondent Nos.4 to 11 was not in accordance with Rule 76. Once such a finding stands on record, it directly negatives the claim of respondent Nos.4 to 11 that their Committee was a lawful Committee.

21. It is therefore clear from the statutory provisions as well as from the Registrar's order that the claim of respondent Nos.4 to 11 to be a validly elected Committee has no legal foundation. Their claim rests only on their own assertion without support of any procedural compliance or statutory recognition. In law, a Managing Committee of a cooperative society comes into existence only when the prescribed procedure is fully complied with. In the absence of such compliance, no rights can be claimed.

22. Accordingly, the plea of respondent Nos.4 to 11 that their Committee was validly constituted does not stand to reason and cannot be accepted.

23. In absence of a duly constituted Committee, the Society was left without a lawful Managing Committee after the year 2020. This position is undisputed because the term of the 2015 Committee had already come to an end and no election was conducted within the prescribed period. Thereafter, two rival

groups came forward with claims of having conducted elections. However, neither group could demonstrate compliance with the mandatory procedure laid down under the Maharashtra Cooperative Societies Act and the Election Rules. The petitioners' group could not establish that their election was recognised by the statutory authority. Similarly, respondent Nos.4 to 11 failed to show that the Returning Officer submitted Form E-17 or that the Registrar thereafter constituted their Committee as required under Rule 76-O. On the contrary, the Registrar himself, in his order dated 5 April 2022, recorded a finding that the election claimed by respondent Nos.4 to 11 was not in accordance with the prescribed Rules. This clearly shows that there was no validly elected Committee in existence after 2020.

24. Once this factual position is established, the legal consequence automatically follows. Section 73-I(2) of the Maharashtra Cooperative Societies Act casts a statutory duty upon the Registrar that, when the term of a committee has expired and no valid election is held, he must take steps under Section 77-A and appoint an Administrator. The provision uses mandatory language and leaves no scope for the Registrar to accept rival claims which are not supported by compliance with statutory requirements.

25. In these circumstances, the appointment of an Administrator by respondent No.3 under Section 77-A was not only within his jurisdiction but also in strict conformity with the Act. The Society could not be left in a state of uncertainty or internal conflict where two groups were making competing claims without lawful basis.

An Administrator was therefore necessary to safeguard the affairs of the Society, to prevent further disputes, and to ensure that elections were conducted in a transparent and legal manner.

26. Thus, the action of respondent No.3 in appointing an Administrator was in consonance with the provisions of law and supported by the factual situation on record. Far from being arbitrary, it was a step required to protect the functioning and stability of the Society.

27. Respondent No.1, in exercise of revisional jurisdiction, set aside the order appointing Administrator. However, the material on record shows that the petitioners were not served with the revision application and were not given proper opportunity of hearing. An order affecting the rights of members cannot be passed without proper opportunity of hearing. The principles of natural justice stand violated. This by itself renders the order dated 1 June 2023 unsustainable.

28. Moreover, respondent No.1 has not dealt with the statutory requirements of Section 73-I and Rule 76-O, nor with the binding finding recorded by respondent No.3 on 5 April 2022. Instead, respondent No.1 has merely accepted the claim of respondent Nos.4 to 11 without examining whether their Committee was ever constituted in the manner provided by law. Such an approach cannot be sustained.

29. The submission of respondent Nos.4 to 11 that they had taken charge of the Society also cannot override the statutory requirement. What matters is not mere possession of office but

compliance with the law. Unless a Committee is constituted by the Registrar in terms of Rule 76-O after receipt of Form E-17, no group can claim to be a lawful Managing Committee.

30. In these circumstances, the order of respondent No.1 dated 1 June 2023 is contrary to law and in violation of natural justice. The order passed by respondent No.3 on 5 April 2022 appointing an Administrator was proper, legal, and justified.

31. Hence, the following order is passed:

(a) The impugned order dated 1 June 2023 passed by respondent No.1 is quashed and set aside.

(b) Respondent No.3 – Deputy Registrar, Cooperative Societies, shall within a period of two weeks from the date of receipt of this judgment appoint an Administrator for the Society. The Administrator shall take steps to conduct the election of the Society strictly in accordance with the Maharashtra Cooperative Societies Election to Committee (Amendment) Rules, 2019. The election process shall be completed as expeditiously as possible so that the Society is not kept under administration for a prolonged period.

(c) The Administrator so appointed shall not take any major policy decisions. He shall confine his role to day-to-day management and the conduct of elections. He shall also comply with clauses 1 to 3 of the order dated 5 April 2022, which continue to bind the Administrator.

32. Rule is made absolute in the above terms. There shall be no order as to costs. The writ petition stands disposed of accordingly.

(AMIT BORKAR, J.)